

## **Part 10**

### **Workers' Compensation Insurance Contracts**

#### **31A-22-1001 Obligation to write workers' compensation insurance.**

The Workers' Compensation Fund created under Chapter 33, Workers' Compensation Fund, shall write all workers' compensation insurance for which application is made to the Workers' Compensation Fund. This requirement does not apply to any other insurer.

Amended by Chapter 222, 2000 General Session

#### **31A-22-1002 Duration of coverage.**

- (1) Any insurer assuming a workers' compensation risk shall carry it until the policy is canceled, either:
- (a) by agreement between the Division of Industrial Accidents in the Labor Commission, the insurer, and the employer; or
  - (b) after:
    - (i) notice by the insurer to the employer as provided in Section 31A-21-303; and
    - (ii) notice to the Division of Industrial Accidents in the Labor Commission as provided in Section 34A-2-205.
- (2) Subsection (1) does not affect the requirements of Section 31A-22-1001.

Amended by Chapter 116, 2001 General Session

#### **31A-22-1003 Comprehensive coverage.**

Every insurance policy covering the liability of an employer under Title 34A, Chapter 2, Workers' Compensation Act, shall cover all types of workers' compensation benefits required to be provided under that chapter. This section does not preclude primary and excess coverage being provided under different contracts.

Amended by Chapter 375, 1997 General Session

#### **31A-22-1004 Direct enforcement by employees.**

All workers' compensation insurance policies shall contain a provision that employees may enforce, in their own names, the liability of the insurer.

Enacted by Chapter 242, 1985 General Session

#### **31A-22-1005 Payment as bar to recovery.**

Payment of compensation under a workers' compensation insurance policy, whether in whole or in part, by either the employer or the insurer, bars recovery by the employee or his dependents to the extent of the payment.

Enacted by Chapter 242, 1985 General Session

#### **31A-22-1006 Insurer's constructive knowledge.**

Every workers' compensation policy or contract shall contain a provision that, as between the employee and the insurer, notice to or knowledge of the occurrence of the injury on the part of the

employer is considered to be notice or knowledge to the insurer. This provision shall also state that the insurer is bound by and subject to the orders, findings, decisions, and awards rendered against the employer for the payment of compensation on account of compensable accidental injuries or occupational disease disability.

Enacted by Chapter 242, 1985 General Session

**31A-22-1007 Employer's insolvency.**

Every workers' compensation policy or contract shall contain a provision that the insolvency of the employer and his discharge does not relieve the insurer from the payment of compensation for injuries or death sustained by an employee during the life of that policy or contract.

Enacted by Chapter 242, 1985 General Session

**31A-22-1008 Employer's breach of safety rules.**

No condition in a workers' compensation policy requiring the insured employer to comply with certain safety rules may excuse the workers' compensation insurer from paying the required benefits to an employee injured as a result of the employer's breach of a safety rule that is a condition to the workers' compensation policy. However, the insurer may bring a claim against the insured employer for breach of the policy condition.

Enacted by Chapter 242, 1985 General Session

**31A-22-1009 Other applicable provisions.**

Workers' compensation insurance contracts are subject to any applicable requirements of Title 34A, Chapter 2, Workers' Compensation Act.

Amended by Chapter 375, 1997 General Session

**31A-22-1010 Workers' compensation deductible policies.**

- (1) An insurer authorized to transact the business of workers' compensation in this state may issue a workers' compensation insurance policy that provides for the insured to participate in the payment of the insurance claims and losses covered by the policy in accordance with rules made by the department.
- (2) Notwithstanding Subsection (1), an insurer:
  - (a) shall assume responsibility to pay all claims and losses under a workers' compensation insurance policy in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;
  - (b) may not permit the insured to participate in the payment of the insurance claims and losses by any means except reimbursement of the insurer; and
  - (c) may not permit an employee to participate in the payment of claims or losses.
- (3) For policies issued under this section, the department shall make rules consistent with this section governing:
  - (a) the terms of the policies; and
  - (b) reporting requirements for the policies.

Enacted by Chapter 277, 1998 General Session

**31A-22-1012 Workers' compensation insurance availability.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to monitor the following related to employers who can only obtain workers' compensation insurance pursuant to Section 31A-22-1001 because of an underwriting standard or guideline described in Subsection (2):
  - (a) the number of employers;
  - (b) the type of employers;
  - (c) the underwriting standard or guideline that causes the employer to obtain workers' compensation under Section 31A-22-1001; or
  - (d) similar information to the information described in Subsections (1)(a) through (c).
- (2) An underwriting standard or guideline described in Subsection (1) includes a standard or guideline regarding:
  - (a) premium size;
  - (b) class code and risk characteristics;
  - (c) payroll and loss experience;
  - (d) another factor identified by the department; or
  - (e) a combination of the factors listed in Subsections (2)(a) through (d).

Enacted by Chapter 348, 2008 General Session